

Charles G. Evans; ABA No. 7705019  
Corey G. Stewart; ABA No. 1202003  
LAW OFFICES OF CHARLES G. EVANS  
165 E. Bunnell Ave., Suite D  
Homer, AK 99603  
Phone: 907-435-0691  
Fax: 907-562-0654

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA**

BERKLEY INSURANCE COMPANY,

Plaintiff,

vs.

NLC GENERAL, INC.; NLE, LLC; RH  
MECHANICAL, INC.; TACTICAL  
CONSTRUCTORS CORPORATION.; FETS, LLC;  
BRIAN H. BARNEY; STEPHANIE K. BARNEY;  
STEVEN B. FITCH; RACHAEL CORINA FITCH;  
RYAN M. HOLZ; ERIC A. HOLZ; MARGARET  
HOLZ; JEFFREY S. BARNEY; REGENA S.  
BARNEY; MICHAEL G. HOLZ; JACQUELINE U.  
HOLZ, individually,

Defendants.

Case No. 3:16-cv-00182-JWS

**ORDER TO DISMISS**

Plaintiff, Berkley Insurance Company, (“Berkley”) by counsel, and Defendants, Stephanie K. Barney, Jeffrey S. Barney, Regena S. Barney, and FETS, LLC, (collectively hereafter “Settling Indemnitors”), having stipulated to a dismissal, with and without prejudice, and the Court being fully advised in the premises,

IT IS ORDERED that Jeffrey Barney will indemnify Berkley and hold it harmless from its losses by paying Berkley the sum of \$810,000.00 in exchange, in part, for an assignment of the

Default Judgment dated February 24, 2017, against the Defaulted Indemnitors, and on terms and conditions more fully set forth in a Settlement and Collateral Pledge Agreement;

IT IS ORDERED that Berkley shall assign to Jeffrey S. Barney without warranty, its judgment dated February 24, 2017, at Docket 80 of the Court records against the Defaulted Defendants and its claims in this case against Ryan M. Holz;

IT IS ORDERED that Berkley will file a notice of the partial termination of its Lis Pendens with the exceptions that the termination shall not include LOT 19A2 (19A-2), in BLOCK FIVE (5), CHENA MARINA SUBDIVISION, SECOND ADDITION, according to the official plat refiled July 28, 2006 as Plat Number 2006-126, records of the Fairbanks Recording District. Fourth Judicial District, State of Alaska, known as the Chena Marina property, LOT 7 in BLOCK 3 of Alaska State Land Survey No. 81-56 DUNE LAKE SUBDIVISION, containing 4.962 acres, more or less, according to the amended survey plat filed in the Fairbanks recording district on August 9, 1982 as Plat 82-112, and LOT 9 in BLOCK 3 of Alaska State Land Survey No. 81-56 DUNE LAKE SUBDIVISION, containing 4.943 acres, more or less, according to the amended survey plat filed in the Fairbanks recording district on August 9, 1982 as Plat 82-112, and cause the notice of termination to be recorded in the same recording district where the Lis Pendens was originally recorded;

IT IS ORDERED that the claims of Berkley against Stephanie K. Barney, Jeffrey S. Barney, Regena S. Barney, and FETS, LLC, for all loss, damages, and claims occurring on or before July 31, 2017, shall be dismissed with prejudice, but the claims of Berkley, if any, occurring on or after August 1, 2017, shall be dismissed without prejudice;

IT IS ORDERED that all of the claims, counter-claims and affirmative defenses of Stephanie K. Barney, Jeffrey S. Barney, Regena S. Barney, and FETS, LLC arising before July 31, 2017 against Berkley shall be dismissed with prejudice with all parties to bear their own attorneys' fees and costs.

DATED this 21<sup>st</sup> day of August 2017.

/s/ JOHN W. SEDWICK  
SENIOR JUDGE, UNITED STATES DISTRICT COURT